IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION NO. 211 OF 2005

IN

APPEAL FROM ORDER NO. 35 OF 2005

EDC LTD., REP.BY ITS MANAGING DIRECTOR AND ANR., ...Applicants

Versus

MR. RICHARD RODRIGUES AND ANR., ...Respondents

Mr. M. S. Sonak, Advocate for the applicants.

Coram:- A. P. LAVANDE, J.

Date:- 6th April, 2006

P.C.

Heard Mr. Sonak, learned Counsel for the applicants. The respondents though served, have chosen not to put in their appearance. The applicants who are the defendants in Special Civil Suit No.167/03/A pending before the Civil Judge, Senior Division, at Panaji have filed Appeal from Order No.35/05 against the order dated 13.4.2005 passed in Misc. Civil Application No.301/2004/A by which the trial Court granted application for injunction restraining the applicants from taking over possession of the assets hypothecated to the defendants by the plaintiffs and further passed an order injuncting the defendants from dispossessing the plaintiffs pursuant to powers under Sections 29, 30 and 31 of the State Financial Corporation Act, 1951.

Mr. Sonak, learned Counsel appearing for the applicants submitted that the trial Court has exercised the jurisdiction illegally by granting blanket injunction against the applicants, without considering

the fact that the plaintiffs were liable to pay to the defendants a sum of Rs.29,99,281/-. According to Mr. Sonak, the learned trial Court has granted the temporary injunction solely on the ground of limitation and the view taken on this aspect is pattently contrary to the well settled principles laid down by the Apex Court in so far as limitation is concerned. According to Mr. Sonak, there cannot be any injunction restraining a financial institution like the Economic Development Corporation from exercising its power under Section 29 of the State Financial Corporation Act on the ground that the same is barred by limitation and the remedy available under Section 29 of the State Financial Corporation Act can be resorted to even after the period of limitation for the purpose of initiating any action in the Court of law.

Prima facie, I find merit in the submission of Mr. Sonak. The trial Court, in my view, was not justified in granting blanket injunction in favour of the plaintiffs, as has been granted. In my opinion, this is a fit case in which the plaintiffs should be put to terms in case the application for injunction sought for by the plaintiffs is to be granted.

Considering the facts and circumstances of the case, I am of the opinion that the respondents must be called upon to deposit an amount of Rs.10,00,000/- as a condition precedent for granting relief in their favour. Accordingly, the respondents are directed to deposit in this Court a sum of Rs.10,00,000/- within a period of six weeks from today. In the event the respondents fail to deposit the said sum of Rs.10,00,000/- within six weeks, the interim order granted by the trial Court shall stand automatically vacated.

Since the respondents have chosen not to put in appearance, a copy of this order be sent to the respondents at the costs of the applicants.

The application stands disposed of accordingly.

A. P. LAVANDE, J.

ssm.